IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 8021 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE D.H.WAGHELA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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BHANUBHAI J BHATT - Petitioner(s)
Versus
STATE OF GUJARAT & 2 - Respondent(s)

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Appearance :
MR.B K.RAJ for Petitioner(s) : 1,
Mr K P Rawal, Asstt.GOVERNMENT PLEADER for Respondent(s) : 1,
None for Respondent(s) : 2 - 3.

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CORAM : HONOURABLE MR.JUSTICE D.H.WAGHELA
Date : 18/04/2006

ORAL JUDGMENT

Although the petition invokes Article 226 and 227 of the Constitution, in reality, it challenges the orders dated 8.4.2005 and 29.8.2005 of the

Gujarat Civil Services Tribunal in the petitioner's appeal No.470 of 2000 and in his Review Petition No.9 of 2005 respectively. The petitioner has sought reinstatement in service with backwages or acceptance of his proposal for voluntary retirement, after being compulsorily retired by way of punishment after a departmental enquiry and proof of serious acts of misconduct.

2. The Civil Services Tribunal has, after adverting to the charges levelled and proved against the petitioner, elaborately dealt with the arguments and contentions of the petitioner and recorded a finding that the charges held to have been proved at the enquiry, were duly proved and the order of punishment was proper and reasonable. Even after rejection of the appeal on that ground, the petitioner appears to have approached the Tribunal again with the review petition raising the contention that the petitioner had already applied for voluntary retirement before issuance of the charge-sheet and initiation of the departmental enquiry and that

application ought to have been entertained and granted. Dealing with that contention, the Tribunal has recorded that the petitioner was fully informed and aware that his application for voluntary retirement was not accepted because of the contemplated enquiry and the petitioner was not entitled to have his application automatically accepted in the peculiar facts and circumstances of the case. Therefore, the review application was also rejected.

3. Learned counsel Mr B K Raj appearing for the petitioner submitted that after a long service under the respondent, the punishment of compulsory retirement was too harsh and disproportionate to the charges proved against the petitioner, particularly when no one else alleged to be involved in the incident was punished. It could not be gainsaid that the impugned judgment and orders of the Tribunal were neither perverse nor illegal and neither any jurisdictional error nor any error apparent on the face of the record could be pointed out. The

punishment imposed upon the petitioner was by no means shockingly disproportionate. On the contrary, the charges levelled and proved against the petitioner involved dishonesty and nepotism in the discharge of his duties. Therefore, this is not a fit case in which the extra ordinary writ jurisdiction of this Court could be invoked and exercised to interfere with the impugned orders. Hence, the petition is dismissed *in limine.*

[D H Waghela, J.]

msp